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Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

Billed Party Preference for  
InterLATA 0+ Calls

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CC Docket No. 92-77

**PETITION FOR RECONSIDERATION**

Citizens United for Rehabilitation of Errants ("C.U.R.E."), by its attorneys and pursuant to 47 C.F.R. § 1.429, hereby requests reconsideration to clarify the rules relating to inmate-only telephones adopted by the Federal Communications Commission's Second Report and Order and Order on Reconsideration<sup>1/</sup> in the above-referenced proceeding.

C.U.R.E. applauds the Commission for recognizing that consumers who receive collect calls from inmates should not be compelled to pay excessive rates by monopoly providers, and that additional safeguards in the form of oral price disclosures are necessary to combat this practice. C.U.R.E. is concerned, however, that the rules adopted in the Second Report and Order are not sufficiently clear to ensure that the same oral price disclosure protections afforded to all away-from-home callers apply equally to consumers who receive collect calls from inmate-only telephones.

Accordingly, C.U.R.E. respectfully requests that the Commission reconsider its rules to clarify that all of the oral price disclosure rules that apply to calls made from all public phones, including the requirement that all surcharges be disclosed, apply equally to consumers receiving

<sup>1/</sup> In the Matter of Billed Party Preference for InterLATA 0+ Calls, CC Docket No. 92-77, Second Report and Order and Order on Reconsideration, FCC 98-9 (rel. Jan. 29, 1998) ("Second Report and Order").

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calls from inmate-only telephones. C.U.R.E. also requests that the Commission clarify that the time spent making oral price disclosures for calls placed from inmate-only telephones may not be billed by the Operator Service Provider (“OSP”) or detract from the limited time in which recipients of such calls may speak with inmates.

In addition, C.U.R.E. asks that the Commission reconsider the inmate-only telephone portion of its decision and require OSPs serving correctional facilities to provide copies of their informational tariff filings to each correctional facility they serve, as well as to interested parties upon request. It is only through this added measure that the calling party from an inmate telephone will have access to price information, as the Commission’s oral price disclosure rules for inmate telephones require only that the party being billed for the call (i.e., the called party) receive the requisite pricing information.

## **INTRODUCTION AND SUMMARY**

C.U.R.E. is a national, non-profit organization dedicated to promoting the reduction of crime and the rehabilitation of offenders through reform of the nation’s criminal justice system.<sup>2/</sup> The disclosure requirements adopted in the Commission’s Second Report and Order mark an important step in C.U.R.E.’s ongoing efforts to promote rehabilitative community ties between inmates and their families by pursuing reforms designed to combat excessive rates and charges. C.U.R.E. remains critically concerned, however, that the families and friends of inmates are not as equally protected as other callers by the Commission’s new rules and must continue to pay

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<sup>2/</sup> C.U.R.E.’s membership includes current and former inmates, their families and friends, Federal, state and local legislators, religious and civic leaders, affiliated non-profit charitable organizations, and others interested in promoting the rehabilitation of inmates through reform of our nation’s penal system.

unnecessarily high rates and charges to receive collect calls from telephones located in prisons, jails and other correctional facilities without being fully informed of the extent of these charges.<sup>3/</sup>

As C.U.R.E. and others have shown in this proceeding, the problem of excessive rates for calls made from inmate-only telephones compounds the striking inequities already placed on the families and friends of loved ones who are incarcerated.<sup>4/</sup> Consumers who receive calls from users of inmate-only telephones are often economically disadvantaged, reside some distance from the area where the prison facility is located, and frequently have no means other than the telephone through which to communicate with their mothers, fathers, children and friends being held in correctional institutions.<sup>5/</sup> Often, the incarcerated individuals were the principle wage-earners in the family, and consumers must now face the prospect of paying exorbitant fees to maintain close family ties with them. Not only do these unnecessarily high rates adversely impact consumers, they also work to the detriment of society by imposing financial burdens that reduce or eliminate rehabilitative bonds that help to reduce recidivism, preserve the family unit, ease prison tensions, and promote societal efforts to rehabilitate ex-offenders.<sup>6/</sup>

C.U.R.E. initially became involved in this proceeding as an advocate of the Commission's proposal to adopt a Billed Party Preference ("BPP") system, which C.U.R.E.

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<sup>3/</sup> See, e.g., Prendergast, "Reach Out and Gouge Someone: How Inmate Phone Services Lock Up Profits," Westword (Feb. 15, 1998) (available at: <http://www.westword.com/1998/020598/news1.html>).

<sup>4/</sup> See, e.g., Comments of C.U.R.E. on Notice of Proposed Rulemaking in CC Docket No. 92-77 (filed May 6, 1993) at 6-11; Comments of the Public Utility Law Project of New York on Further Notice of Proposed Rulemaking in CC Docket No. 92-77 (filed July 15, 1994) at 7-8; Comments of C.U.R.E. on Second Further Notice of Proposed Rulemaking in CC Docket No. 92-77 (filed July 16, 1996) ("C.U.R.E. Comments") at 2.

<sup>5/</sup> Id.

<sup>6/</sup> Id.

argued should apply equally to inmate-only telephones. C.U.R.E. observed that without BPP, telecommunications carriers would have little incentive to provide quality service at affordable rates because the party paying for the call would not be the one choosing the service provider. Although the Commission decided to not implement BPP, C.U.R.E. supports fully the Commission's decision to require the implementation of oral price disclosures in order to promote greater consumer awareness of telecommunications rates and charges.

The price disclosure requirements of the Second Report and Order represent an important first step in addressing the problem of excessive charges for all away-from-home calls. While these requirements will help protect the majority of telecommunications users, C.U.R.E. remains concerned that the Commission's new rules do not make it sufficiently clear that the same oral price disclosure protections afforded to all away-from-home callers equally apply to those consumers who receive collect calls from inmate-only telephones. C.U.R.E. therefore believes that the Commission must reconsider the Second Report and Order to clarify that all of the oral price disclosure rules, including the requirement that all surcharges be disclosed, that apply to phones located in aggregator locations apply equally to inmate-only telephones. Reconsideration is also warranted so that it is clear that the time spent making oral price disclosures for calls from inmate-only telephones cannot be billed or detract from the limited time the recipients of such calls may speak with inmates. Finally, the Commission should require OSPs serving correctional institutions to provide copies of their informational tariff filings to the correctional facilities they serve, as well as make copies of such filings available to any interested party.

**I. THE COMMISSION SHOULD CLARIFY THAT ITS PRICE DISCLOSURE PROTECTIONS APPLY EQUALLY TO CONSUMERS WHO RECEIVE COLLECT CALLS FROM INMATE-ONLY TELEPHONES, AND THAT THE TIME SPENT MAKING ORAL PRICE DISCLOSURES CANNOT BE BILLED OR OTHERWISE DETRACT FROM LIMITED CALLING TIME.**

The Commission's Second Report and Order makes clear that before a 0+ interstate, domestic, interexchange call from an aggregator location may be connected by an OSP, the OSP must orally advise the caller about how to proceed to receive a rate quote.<sup>7/</sup> The Second Report and Order also requires that all such rate quotes include the cost of all applicable surcharges, or the maximum possible total cost of the call, including all surcharges.<sup>8/</sup> In addition, the Commission's decision specifically states that all rate information for calls placed from aggregator locations must be furnished at no charge before the call is connected.<sup>9/</sup> All of these protections are designed to provide consumers with important rate information that the Commission has deemed necessary to help prevent the imposition of excessive rates and charges for 0+ calls.<sup>10/</sup>

Although the Second Report and Order states that, like the majority of all away-from-home callers, consumers charged for calls made from inmate-only telephones deserve protection from excessive rates, it does not make clear that these consumers must be afforded the same specific oral price disclosure protections that apply to calls made from aggregator locations. Specifically, Section 64.710, which is the new rule applicable to OSPs serving inmate telephones, does not state that oral price disclosures must be made "at no charge" to the billed

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<sup>7/</sup> Second Report and Order at ¶¶ 19, 28. See also id. at Appendix A (adding new Section 64.703(a)(4)).

<sup>8/</sup> Second Report and Order at ¶¶ 19, 28.

<sup>9/</sup> Id. at ¶ 26.

party and that they must include any “surcharge or disclose the maximum total cost of the call, including any surcharges.”<sup>11/</sup>

It stands to reason that if, as the Commission has itself acknowledged, consumers paying for inmate calls are worthy of the same protection as all other callers, carriers serving these consumers should be subject to the same price disclosure rules as all other OSPs. If anything, consumers paying for inmate calls should receive additional protection, as they are often economically disadvantaged, reside some distance from the prison site, and are captive to only one form of service (i.e., collect calls) through which they may speak with their loved ones. Consumers who are billed for calls from correctional facilities are in the same position as all other public telephone users in that, without oral price disclosures, they cannot easily ascertain the rates and charges associated with 0+ calls. The Commission itself acknowledged the need for these consumers to be protected from abusive billing practices this when it stated:

Even if, arguendo, restrictions on all dial-around calls can still be justified for inmate-only telephones, rules requiring providers to identify themselves to both parties of a collect call and to disclose to the party to be billed how to obtain specific rate information without charge, can eliminate some of the abusive practices that have led to complaints.<sup>12/</sup>

Unless the Commission modifies Section 64.710 to make clear that OSPs operating inmate phones must comply with the same disclosure requirements applicable to all other providers,

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<sup>10/</sup> Id. at ¶ 28.

<sup>11/</sup> Compare Section 64.703(a)(4) (the oral price disclosure rules for most OSPs) with Section 64.710 (the oral price disclosure rules for OSPs serving prison inmate phones). While the language of Section 64.703(a)(4) specifically states that oral price disclosures must include all surcharges and must be made at no charge to the customer, this same specific language is omitted from 64.710, which only requires OSPs serving inmate-only telephones to identify themselves before connecting the call and orally disclose how the consumer may obtain rate quotations.

<sup>12/</sup> Second Report and Order at ¶ 60.

C.U.R.E. is concerned that inmate-only OSPs will engage in practices that will render the disclosure requirements a nullity (e.g., OSPs serving inmate-only phones will simply inform consumers that they may obtain rate information by writing a letter to the carrier or obtaining a copy of its tariff filing at the Commission). It is therefore imperative that OSPs serving in inmate phones be specifically required to disclose all rates, including surcharges, over the telephone to the billed party free of charge.

In addition, as the Commission is aware, calls placed from inmate-only telephones are often limited in duration to ten or fifteen minutes for various reasons.<sup>13/</sup> The limited duration of these calls makes every second devoted to conversation between inmates and their families and friends precious. It is for this reason that the Commission should clarify that all information relating to oral price disclosures may not detract from the total connection time available to inmates.<sup>14/</sup> While C.U.R.E. is aware that the Commission has stated that it does not expect oral price disclosures to require more than several seconds, it is possible – and even likely – that in some circumstances the required disclosures could take longer. It is important that consumers being billed for collect calls placed by inmates receive the full benefit of the conversation time for which they are paying, especially in light of the high rates they are charged. The Commission should therefore reconsider and clarify this portion of its decision.

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<sup>13/</sup> These reasons include, but are not limited to, prison security and the apportionment of telephone privileges among inmates.

<sup>14/</sup> C.U.R.E. recognizes that, in instances where prison officials and not automated phone features, control the duration of the call, this requirement may not be applicable.

**II. THE COMMISSION SHOULD REQUIRE OSPs SERVING CORRECTIONAL INSTITUTIONS TO PROVIDE COPIES OF THEIR INFORMATIONAL TARIFF FILINGS TO THE CORRECTIONAL FACILITIES THEY SERVE AND TO OTHERS UPON REQUEST.**

In its Second Report and Order, the Commission states that all OSPs must continue to file Section 226 informational tariffs. The decision also amends the Commission's rules to require that these informational tariffs include specific rates expressed in dollars and cents, as well as applicable per-call aggregator surcharges or other per-call fees, if any, that are collected from consumers.<sup>15/</sup> The Commission concludes that its oral price disclosure rules, together with the availability of pricing information from public tariffs, will allow consumers to make rational purchasing decisions, encourage OSPs to initiate price reductions and other competitive programs, and impose market-based discipline on OSPs.<sup>16/</sup>

Section 64.710 makes clear that the only party to an inmate call to which an OSP is required to provide oral price disclosure information is the party being billed for the call.<sup>17/</sup> Because inmates are the ones who must initiate all of their telephone calls and can only make collect calls, this places the recipients of inmate calls at a distinct disadvantage because they are not assured that the calling party has been informed of the cost of the call and is therefore exercising market discipline in deciding whether or not to place the call. For obvious reasons, inmates are at a disadvantage in obtaining and reviewing informational tariffs, and are otherwise ill-equipped to determine the costs their calls will create. This presents a problem because it is the recipient of the call who must ultimately pay for it. While it is true that the recipient may

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<sup>15/</sup> Second Report and Order at ¶ 43.

<sup>16/</sup> Id.

<sup>17/</sup> See id. at Appendix A, Section 64.710(b)(1) (“Consumer means the party to be billed for any interstate, domestic, interexchange 0+ call from an inmate telephone.”)



decline to accept the call to avoid paying any charges, this does not place the recipient in a position that is analogous to a 0+ caller, who often may choose whether to place the call for which he or she is paying for to begin with.<sup>18/</sup>

Of equal importance is the fact that making available to inmates all rates and charges will help to promote inmate fiscal responsibility. Although inmates are incarcerated, a vital component of the rehabilitation effort involves requiring them to take responsibility for their actions. Providing inmates with rate information will enable them to play an important role in family budgeting decisions, as well as issues relating to the length and frequency of their telephone calls, and will help to contribute to their rehabilitation efforts.

In its comments filed in this proceeding, C.U.R.E. requested that the Commission require OSPs serving correctional facilities to make copies of their informational tariffs available on the premises of these facilities, as well as provide copies to interested parties upon request, so that the families and friends of inmates, as well as inmates themselves, are able to more effectively monitor billing rates.<sup>19/</sup> Because the Commission did not address this issue in its Second Report and Order, C.U.R.E. hereby renews its request and asks that the Commission further amend its Section 226 informational tariff filing rules to incorporate this requirement. As an alternative, C.U.R.E. submits that it would be appropriate to allow the posting at or near inmate telephones of placards that provide all pricing information required by the rules.<sup>20/</sup>

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<sup>18/</sup> The position of the recipient of an inmate-only telephone call is also distinguishable from that of one who receives a regular collect call, because, presumably, alternative calling methods that are not available to inmates are available to the person calling collect.

<sup>19/</sup> C.U.R.E. Comments at 6.

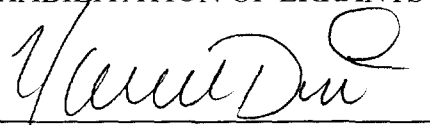
<sup>20/</sup> Any placard or rate card posted by an OSP serving a correctional facility would have to contain, in easily understandable language, the same information required by the Commission's

## CONCLUSION

For the reasons stated herein, C.U.R.E. respectfully submits that the Commission should reconsider its Second Report and Order to clarify that its price disclosure rules, including those requiring the disclosure of all surcharges, apply equally to inmate-only telephones. The Commission should also reconsider and clarify that the time spent making price disclosures cannot be billed or otherwise detract from limited inmate calling time. Finally, the Commission should require OSPs serving correctional institutions to make copies of their informational tariff filings available to inmates and families at the correctional facilities they serve, and to others upon request.

Respectfully submitted,

CITIZENS UNITED FOR  
REHABILITATION OF ERRANTS



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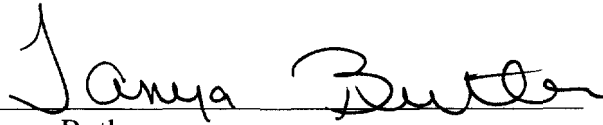
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oral price disclosure rules for away-from-home calls, including the rate for the first minute of all calls, the rate for each additional minute, and all surcharges.

## CERTIFICATE OF SERVICE

I, Tanya Butler, hereby certify that on this 9th day of April, 1998, a copy of the forgoing "Petition for Reconsideration" was served on the following by messenger:

  
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